

# BOARD OF ALDERMEN

ITEM NO. B(6)

## AGENDA ITEM ABSTRACT MEETING DATE: Tuesday, June 22, 2004

**TITLE: Public Hearing: LUO Text Amendments making certain restaurant uses permissible in the B-1(g) zoning district**

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| <b>DEPARTMENT: PLANNING</b>  | <b>PUBLIC HEARING: YES <u>X</u> NO <u>  </u></b>   |
| <b>ATTACHMENTS:</b><br>A. Draft Ordinance<br>B. Excerpt of minutes – April 6, 2004 meeting of the Board of Aldermen<br>C. Map of Zoning Districts and Downtown Restaurants<br>D. Planning Board recommendation | <b>FOR INFORMATION CONTACT:</b><br>Patricia McGuire – 918-7327<br>Mike Brough – 929-3905 |

### PURPOSE

A draft ordinance that would modify the permit requirement for certain restaurant uses in the B-1(g) zoning district has been prepared. The administration recommends adoption of the draft ordinance with the changes noted.

### INFORMATION

On April 6, 2004, Aldermen Chilton reported on a restaurant business that was being considered for property on West Rosemary Street (*Attachment B*). The property is located in the EAT overlay portion of the B-1(g) zoning district. Restaurant uses are permitted in these locations as follows:

|        | <b>8.100</b>                 | <b>8.200</b>                  | <b>8.500</b>           | <b>8.600</b>           |
|--------|------------------------------|-------------------------------|------------------------|------------------------|
|        | <b>(on-premises, indoor)</b> | <b>(on-premises, outdoor)</b> | <b>(carry-out)</b>     | <b>(food delivery)</b> |
| B-1(g) |                              |                               | Conditional Use Permit | Conditional Use Permit |
| EAT    | Conditional Use Permit       | Conditional Use Permit        | Conditional Use Permit | Conditional Use Permit |

These permit requirements are specified in both the definition of the EAT Restaurant District overlay and the table of permissible uses. Per a request from the Board of Aldermen, a draft ordinance that would make restaurant uses in the B-1(g) zoning district permissible with a zoning permit, subject to some limitations, was prepared and forwarded for public hearing.

### Description of the B-1(g) Zoning District

The Land Use Ordinance includes the following description of the B-1(g) and the EAT districts:

**B-1(G) GENERAL BUSINESS.** This district is designed to accommodate a broad range of business uses. This district, because of its close proximity to established residential single family neighborhoods, is limited in the types of night uses permitted. Uses may be restricted in the hours of operation where the permit-issuing authority finds that such restrictions are necessary to prevent unreasonable

disruptions to the peace and quiet of a nearby residential area... In addition, no metal buildings shall be allowed in this district.

**(EAT) RESTAURANT DISTRICT OVERLAY.** This overlay district is designed to accommodate on-premises (inside and outside) dining 8.100 and 8.200 restaurant uses in the B-1(g) General Business district. Because of the B-1(g) district's close proximity to established residential single-family neighborhoods, the EAT overlay is restricted to properties a minimum distance of one property width from abutting residential zones and is limited in the types of night uses permitted. In addition, emphasis is given to the existing restrictions in the B-1(g) district and the ability of the permit-issuing authority to limit hours of operation where such restrictions are necessary to prevent unreasonable disruptions to the peace and quiet of a nearby residential area. Use of property within the overlay district for 8.100 and 8.200 purposes shall require the issuance of a conditional use permit.

Until 1992, the B-1(g) district contained a statement that business uses which were particularly encouraged in the B-1(c) district, especially restaurants, were not allowed in the B-1(g). In 1992, with the amendment that removed the prohibition against restaurant uses, carryout service and food delivery uses (8.500 and 8.600) were added to the table of permissible uses, making these activities permissible with a conditional use permit.

In 1995, there were 18 restaurants operating in the downtown, the bulk of them in the B-1(c) district. One of the three restaurants in the B-1(g) at the time was nonconforming since it included on-premises dining. That same year, the town responded to a request to make on-premises dining permissible in the B-1(g) zoning district with the creation of the EAT Restaurant District overlay. Created as a subset of the B-1(g), the EAT was sited on the eastern end of town and encompassed about 15 percent of its parent zone or 6 percent of the downtown. Within this district, on-premises dining, both inside and out-of-doors, would be permissible with a conditional use permit. Subsequent to the establishment of the EAT overlay, a permit application for Carrburrito at 711 W. Rosemary Street was submitted and approved. At the present time, there are 20 restaurants in the downtown and one under development. A map showing the boundaries of downtown zones and the location of existing restaurants is attached (*Attachment C*). The draft ordinance contains two substantive sections. It adds a new comment "ZC (1)" to the Table of Permissible Uses and then provides an explanation of this comment in the following section. The change will make the principal restaurant uses permissible over nearly 46 acres, the largest downtown zoning district. The June 18, 2004 draft of the ordinance would make the modified permit requirements applicable to the carry-out and food delivery restaurant uses as well as on-premises dining. Language to clarify the meaning of "existing building" has also been included.

Per the Joint Planning Agreement, the draft ordinance was submitted to Orange County for review, accompanied by a request for an expedited review. The Town has not received written confirmation from the Orange County Manager agreeing to an expedited review. Should the County not respond accordingly, it will be necessary that an effective date of the ordinance of no earlier than July 4 be established as that is 30 days after the notice was provided. The Planning Board also reviewed this draft ordinance and a copy of its recommendation is attached (*Attachment D*).

### **FISCAL IMPACT**

None noted.

## **ADMINISTRATION'S RECOMMENDATION**

The Administration recommends that the Board of Aldermen adopt the draft ordinance with the changes noted in the June 18, 2004 draft.